APPENDIX.

Revenue Act of 1926, c. 27, 44 Stat. 9:

SEC. 302 (as amended by Section 404 of the Revenue Act of 1934, c. 277, 48 Stat. 680). The value of the gross estate of the decedent shall be determined by including the value at the time of his death of all property, real or personal, tangible or intangible, wherever situated, except real property situated outside the United States * * *.

(b) To the extent of any interest therein of the surviving spouse, existing at the time of the decedent's death as dower, curtesy, or by virtue of a statute creating an estate in lieu of dower or curtesy; * * *.

* * * * * *

(d) (as amended by Section 401 of the Revenue Act of 1934 * * *) (1) To the extent of any interest therein of which the decedent has at any time made a transfer, by trust or otherwise, where the enjoyment thereof was subject at the date of his death to any change through the exercise of a power, either by the decedent alone or in conjunction with any person, to alter, amend, or revoke, or where the decedent relinquished any such power in contemplation of his death, except in case of a bona fide sale for an adequate and full consideration in money or money's worth. * * * (U. S. C., Title 26, Sec. 411.)

Revenue Act of 1932, c. 209, 47 Stat. 169:

SEC. 804. RELINQUISHMENT OF DOWER, ETC., AS CONSIDERATION.

Section 303 (d) of the Revenue Act of 1926 is amended by adding at the end thereof a new sentence to read as follows:

"For the purposes of this title, a relinquishment or promised relinquishment of dower, curtesy, or of a statutory estate created in lieu of dower or curtesy, or of other marital rights in the decedent's property or estate, shall not be considered to any extent a consideration 'in money or money's worth'." (U. S. C., Title 26, Sec. 412.)

Report No. 708 of the Ways and Means Committee to the House of Representatives, 72nd Congress, First Session, Pages 46, 47, 48:

SECTION 803. FUTURE INTERESTS.

The purpose of this amendment to section 302(c) of the revenue act of 1926 is to clarify in certain respects the amendments made to that section by the joint resolution of March 3, 1931, which were adopted to render taxable a transfer under which the decedent reserved the income for his life. * * *

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SECTION 804. RELINQUISHMENT OF DOWER, ETC., AS CONSIDERATION.

This amendment excludes, in determining "consideration in money or money's worth," the value of a relinquished, or a promised relinquishment of, dower, curtesy, or other marital rights in decedent's property. Section 302(a) and (b) of the 1926 act require the value of such an interest to be included in the gross estate, and, if its value may, in whole or in part, constitute a consideration for an otherwise taxable transfer (as has been held to be so), or an otherwise unallowable deduction from the gross estate, the effect produced amounts to a subversion of the legislative intent expressed in section 302(a) and (b).

For example, a decedent dies leaving an estate of $1,500,000 (after payment of all charges), and under the State law the surviving spouse is entitled to one-third, or $500,000, of which she can not be deprived by

will without her consent. Under existing law, the estate is entitled to no deduction on account of her statutory rights, but, if she and decedent had entered into a contract by which she was to receive from his estate a stated sum in consideration of a waiver of her statutory rights, the amount due her under the contract might be held a deductible claim against the estate as having been contracted for an adequate and full consideration in money's worth, namely, the value of her waived marital rights.

SECTION 805. DEDUCTIONS.

This amendment, with one exception, merely clarifies the existing law so far as it relates to an important group of deductions allowable in computing the net estate subject to estate tax. The principal changes made are:

(1) * * *

(2) A clarifying provision to remove any question as to the deductibility of property taxes which did not accrue until after decedent's death. Such taxes are not claims nor administration expenses, and moreover are allowed for income-tax purposes.

(3) * * *

(4) A clarifying provision limiting the requirements of an adequate and full consideration in money or money's worth to liabilities founded on contract. The existing law might be open to a construction under which no claim against the estate would be deductible unless supported by an "adequate and full consideration in money or money's worth," but the real intent could hardly have been to deny the deduction of liabilities imposed by law or arising out of torts, and the amendment whereby the requirement of a consideration applies only where the liability is founded on contract is designed to clear up any doubt which may be thought to exist.